

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3182-01
Bill No.: SB 748
Subject: Construction and Building Codes; Contracts and Contractors; Transportation;
 Transportation Dept.; Public Buildings
Type: Original
Date: January 14, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Road Fund	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development – Division of Professional Registration** and the **Secretary of State’s Office** assume the proposed legislation would have no fiscal impact on their office.

Officials from the **Office of Administration – Division of Design and Construction (COA)** assume that five qualified proposers participate in the bid process for each design-build project. COA assumes that each proposer is responsive and does not desire to retain all rights and interest in their design, and the stipend paid to each proposer is approximately \$25,000. COA states that the initial expense of the stipends would be offset by the increased efficiency of the design-build process, and therefore, assumes no fiscal impact.

Oversight assumes that combining the design and construction of a facility into one contract may affect the total cost of the project. Savings could be realized since one "design-builder" is responsible for the total project, and COA would not have to contract out the design and construction functions separately. However, Oversight further assumes there may be additional costs associated with this proposal, as it requires COA to pay a stipend to each unsuccessful proposer in return for their rights in the design. Because design-builders may choose to forfeit this fee to retain the rights to their design, the costs for these fees cannot be estimated.

Officials from the **Department of Transportation (DHT)** state that the use of design-build by the Missouri Highway Transportation Commission would have a fiscal impact if the design-build project costs more or less than a traditional design-bid-build project. DHT is unable to provide an estimate of the costs or savings for this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005 (6 Mo.)
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GENERAL REVENUE

<u>Savings</u> - Due to design-build contracts	Unknown	Unknown	Unknown
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<u>Costs</u> - Stipend for rights to designs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Unknown</u> <u>to (Unknown)</u>	<u>Unknown</u> <u>to (Unknown)</u>	<u>Unknown</u> <u>to (Unknown)</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005 (6 Mo.)
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ROAD FUND

<u>Savings</u> - Due to design-build contracts	Unknown	Unknown	Unknown
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<u>Costs</u> - Stipend for rights to designs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON ROAD FUND	<u>Unknown</u> to <u>(Unknown)</u>	<u>Unknown</u> to <u>(Unknown)</u>	<u>Unknown</u> to <u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005 (6 Mo.)
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

This proposal may affect small businesses as it may decrease the number of businesses capable of bidding on both the design and construction of a facility.

DESCRIPTION

This proposal authorizes the Division of Design and Construction to enter into "design-build" contracts for the development of state buildings as pilot projects. The Division may use the design-build process for up to four projects with a projected cost of \$5 million or less and four projects with a cost of more than \$5 million. The Director must submit ongoing progress reports to the General Assembly at each regular session during the course of the pilot program. In addition, the Director shall present a final detailed report of all completed design-build projects to the General Assembly completed each year during the pilot program. Such final reports shall contain an assessment of the advantages and disadvantages of the design-build process relative to the traditional design-bid-build procurement process on such completed projects.

The Director of the Division of Design and Construction may determine that a design-build procurement process is necessary for any particular project based upon criteria set out in the

proposal. The Division may hire a consultant to prepare proposals, review documents, decide disputes and make inspections. Design-build proposals are evaluated by a team composed of at DESCRIPTION (continued)

least two representatives of the Division, two representatives of the agency that is to use the finished building and a chairman appointed by the Director of the Division.

Proposals may be solicited in three phases: Phase I involves soliciting of qualifications of the design-build team. The top five qualifiers will be asked to participate in Phase II, in which they submit their design for the project. In Phase III, the design-build contractors shall submit cost proposals. The phases shall be weighted.

The Division shall pay a reasonable stipend to qualified proposers who submit responsive bids that are not accepted and the state shall have the right to use the design so submitted. If the design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

This proposal also allows the Department of Transportation to enter into one interstate highway design-build pilot project within 10 years of the effective date of this proposal. The commission must establish a written procedure by rule for pre-qualifying design-builders before they will be allowed to submit a project proposal. The commission may issue requests for bid to up to 5 pre-qualified design-builders. The commission will make all final decisions regarding performance of work under the contract. The commission may promulgate rules to implement these provisions. The commission must submit a report to the General Assembly and Governor following the award of the design-build project as well as subsequent annual reports. If the commission fails to receive at least two submissions from qualified design-builders, the submissions shall not be opened and the project shall be readvertised.

This proposal allows persons or corporations (architects, engineers and land surveyors) who are not licensed or do not hold a certificate under Chapter 327, RSMo, to enter into agreements to design and build projects for public or private entities without being licensed in Missouri. The person or corporation cannot hold itself out as able to perform those services and the actual work must be performed by persons licensed or by corporations holding a certificate to provide architectural, engineering or land survey services

This proposal shall expire on December 31, 2004.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development – Division of Professional Registration
Office of Administration – Division of Design and Construction
Department of Transportation
Secretary of State's Office



Mickey Wilson, CPA
Acting Director

January 16, 2002